(2)

Supreme Court, U.S.
FILED
APR 24 2003
OFFICE OF THE CLERK

No. 02-1415

In The Supreme Court of the United States

GRAND AERIE, FRATERNAL ORDER OF EAGLES,

Petitioner,

v.

TENINO AERIE NO. 564, FRATERNAL ORDER OF EAGLES; KATHLEEN J. CONNER; LANETTE DAVIS; JULIA A. FOSTER; GAYLE HARTMAN; KAYCEE L. JOHNSON; ANNETTE RILEY; DIANNE E. ROBERTS; JANET TRESENRITER; ALICE F. VASSAR; and WHIDBEY ISLAND AERIE NO. 3418, FRATERNAL ORDER OF EAGLES,

Respondents.

On Petition For Writ Of Certiorari To The Washington Supreme Court

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

*ROSEMARY DASZKIEWICZ
CAIRNCROSS & HEMPELMANN, P.S.
524 Second Avenue, Suite 500
Seattle, WA 98104
(206) 587-0700

ELIZABETH THOMAS
LAURA K. CLINTON
PRESTON GATES & ELLIS LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
(206) 623-7580
Attorneys for Respondents

**Counsel of Record*

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

41pp

COUNTERSTATEMENT OF ISSUE PRESENTED FOR REVIEW

May Washington State apply its anti-discrimination statute to prohibit a non-private, non-selective club from excluding women from membership solely based on gender, especially where the organization previously extended membership to women who remain members of the organization?

PARTIES TO THE PROCEEDING

The Petitioner in this Court is the Grand Aerie, Fraternal Order of Eagles ("Grand Aerie"), the governing body of the Fraternal Order of Eagles ("Eagles"). The Eagles is a non-profit national organization with approximately 700,000 members worldwide that engages in a range of civic activities. CP 597. The Eagles has chapters, or "local aeries," operating in many states, including the State of Washington. Historically a male-only organization, the Grand Aerie, on its own initiative and of its own volition, extended membership to women between 1995 and 1998.

The organizational Respondents in this Court are the Fraternal Order of Eagles, Tenino Aerie No. 564 (the "Tenino Aerie"), and the Fraternal Order of Eagles, Whidbey Island Aerie No. 3418 (the "Whidbey Island Aerie"), two local aeries in Washington that admitted women as full members under the direction and consent of the Grand Aerie during the 1995-1998 period. Petitioner incorrectly asserts that all individual respondents are "women who were denied membership." Petition at ii. Respondents Julia A. Foster, Alice F. Vassar, Janet Tresenriter, Annette M. Riley, and Gayle L. Hartmann were admitted by Respondent Tenino Aerie, paid their membership dues, and were officially admitted as full members to the Eagles by the Grand Aerie. The Grand Aerie refused to issue membership numbers and returned membership dues to only four Respondents, Kathleen L. Connor, Lanette Davis, Kaycee L. Johnson, and Dianne E. Roberts, who had been admitted by the Tenino Aerie.

TABLE OF CONTENTS

	Page
COUNTERSTATEMENT OF ISSUE PRESENTED FOR REVIEW	i
PARTIES TO THE PROCEEDING	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	v
I. OPINION BELOW	1
II. CONSTITUTIONAL AND STATUTORY PROVISIONS	1
III. COUNTERSTATEMENT OF THE CASE	1
A. Facts Giving Rise to the Dispute	1
B. The Eagles' Charter Documents and Practices do not Reveal an Articulated Expression in Favor of the Exclusion of Women	2
C. The Eagles Engage in Widespread Public Recruiting Activities and are Largely Unselective in Membership	4
D. Eagles' Activities are Civic, Financial, and Charitable in Nature, With Corresponding Financial Benefits to Members	5
E. Proceedings Before the State Courts	7
IV. REASONS FOR DENYING THE WRIT	8
A. Summary of Reasons to Deny the Writ	8
B. The Washington Supreme Court's Decision Accords With Precedent	9

TABLE OF CONTENTS – Continued

Page

1. The Washington Supreme Court Correctly Applied *Board of Directors of Rotary Int'l v. Rotary Club of Duarte* and *Roberts v. United States Jaycees* to Determine that the Eagles are not Private 10

2. The Washington Supreme Court's Ruling does not Conflict With *Boy Scouts of America v. Dale* Because the Eagles are not Private 12

3. The Washington Supreme Court's Ruling was Correct Because the Continued Admission of Women Causes no Harm to the Eagles' Expressive Freedom 13

4. The Washington Supreme Court's Ruling was Correct Because any Incidental Burden on the Eagles' Expressive Interests is Justified by Washington's Compelling Interest in Preventing Discrimination 17

5. The Washington Decision is Consistent with Other Cases Cited by Petitioner 18

C. Application of the Washington Law Against Discrimination to the Eagles does not Raise an Important Federal Issue 20

V. CONCLUSION 22

TABLE OF AUTHORITIES

Page

CASES CITED:

Beeston v. Guard, 83 Wash. App. 325, 921 P.2d 544 (1996) 18

Board of Directors of Rotary Int'l, et al. v. Rotary Club of Duarte, 481 U.S. 537 (1987) ..... *passim*

Boy Scouts of America v. Dale, 530 U.S. 640 (2000) ..... *passim*

Donaldson v. Farrakhan, 436 Mass. 94, 762 N.E.2d 835 (Mass. 2002) 18, 19

Fraternal Order of Eagles, Tenino Aerie No. 564, et al. v. Grand Aerie, Fraternal Order of Eagles, et al., 108 Wash. App. 208, 27 P.3d 1254 (2001) 7

Fraternal Order of Eagles, Tenino Aerie No. 564, et al. v. Grand Aerie of Fraternal Order of Eagles, et al., 148 Wash. 2d 224, 59 P.3d 655 (2002) ..... *passim*

Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc., 515 U.S. 557 (1995) 15

Louisiana Deb. and Lit. Ass'n v. City of New Orleans, 42 F.3d 1483 (5th Cir. 1995) 9, 13, 22

New York State Club Ass'n, Inc. v. City of New York, 487 U.S. 1 (1988) 19, 20

Roberts v. United States Jaycees, 468 U.S. 609 (1984) ..... *passim*

OTHER AUTHORITIES CITED:

U.S. Const. amend. I 1, 10

Wash. Const., Art. XXXI, §1 18

Wash. Rev. Code 49.60.010 *et seq.* 1, 20

Sup. Ct. R. 10 8

I. OPINION BELOW

The decision of the Washington Supreme Court is reported as *Fraternal Order of Eagles, Tenino Aerie No. 564, et al. v. Grand Aerie of Fraternal Order of Eagles, et al.*, 148 Wash. 2d 224, 59 P.3d 655 (2002).

II. CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution, First Amendment

Washington State Constitution, Equal Rights Amendment

Washington Law Against Discrimination, Wash. Rev. Code 49.60.010 *et seq.*

III. COUNTERSTATEMENT OF THE CASE

A. Facts Giving Rise to the Dispute.

Petitioner urges that the exclusion of women is an aspect of its right of expressive association. Yet, on November 27, 1995, the Grand Aerie, in response to a changed social and legal climate, voluntarily directed local aeries that they could begin admitting women as Eagles members without restriction on their participation within the organization.[1] Clerk's Papers ("CP") 820. Between 1995

[1] In 1995, the Grand Aerie determined that the provision in the Eagles' statutes requiring members to be male was contrary to law, and issued an opinion stating that the statutory limitation to males was unenforceable. Opinion No. 750, CP 813. Even before 1995, some women were eligible for membership through an internal organization

(Continued on following page)

and 1998, following the Grand Aerie's direction, local aeries such as Respondents Tenino Aerie and Whidbey Island Aerie began admitting women. App. 11, CP 639 (Decl. of Charles N. Tarver, ¶16). The resulting increased membership poured money into the Eagles' coffers and, in the case of groups such as the Tenino Aerie, stabilized the local aeries' finances. *Id.* ¶17. Effective July 30, 1998, the Grand Aerie revoked its gender-neutral policy, but allowed all then-admitted female members to remain in the local aeries and the national organization. CP 825. There are no degrees of membership in the Eagles. CP 881. Thus, these women continue to fully participate in all Eagles activities, including the ritual activities upon which Petitioner relies to demonstrate its associational claim. Petition at 14. Respondents, two local aeries, current female Eagles members, and female applicants who were denied membership after the change, challenged the Grand Aerie's reimposition of a gender-based membership policy.

B. The Eagles' Charter Documents and Practices do not Reveal an Articulated Expression in Favor of the Exclusion of Women.

The Grand Aerie's decision to permit the admission of women in 1995 appears to have been based on its recognition of the reality of the legal landscape nationwide

---

known as REAC, the Retired Eagles Activity Club: "An Aerie member's wife, who with him belongs to REAC does not surrender or lose her REAC membership if he dies and she is not a member of the Ladies Auxiliary." CP 962-63.

following this Court's rulings in *Roberts v. United States Jaycees*, 468 U.S. 609 (1984) and *Board of Directors of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987), and subsequent state and lower federal court cases. CP 813 (Opinion 750). The decision was consistent with the Eagles' foundational documents and virtually all other published expressions of the purpose and objectives of the organization. For example, the Eagles' Articles of Incorporation,[2] last amended in 1948, state that the purpose of the Eagles is to "unite fraternally for the mutual benefit, protection, improvement and social enjoyment of *all persons*." CP 877 (emphasis added). The preamble to the Eagles' Constitution states that the purpose is to "unite fraternally for mutual benefit, protection, improvement, social enjoyment and association, all persons of good moral character who believe in a Supreme Being to inculcate the principles of liberty, truth, justice and equality." CP 879.

The Eagles' Articles of Incorporation and Constitution are devoid of any suggestion that women are somehow antithetical to the organization's mission, procedures, or message. CP 875-86. Also missing from the Eagles' organic documents are any references to "manly virtue," a phrase that appears in the record in only one line in one declaration. *See* CP 598 (Decl. of Robert Wahls, at ¶11). The organization's gender-inclusive message is repeated in other publications, such as the new member brochure,

---

[2] The Eagles' foundational documents include Articles of Incorporation and a Constitution. CP 875-86. Following a pattern common in federal and state law, the Eagles have also adopted statutes, which provide more detailed operational instructions. CP 887-97. The male-only membership requirement appears at Statute 70.2.

which describes the Eagles as "more than anything else, [ ] a dream – the dream that ordinary men *and women* everywhere are entitled to and shall enjoy the right to life, to liberty, and to the pursuit of happiness with some reasonable chance of catching up to it in their lifetime." Lodging ("L") at 14, CP 705 (emphasis added).

The Eagles has consistently included women in most aspects of the organization. Before 1995, women were able to participate in almost all Eagles activities through a Ladies' Auxiliary, which was designed "to aid the Grand Aerie and be helpful to it in carrying out the Grand Aerie's charitable, humanitarian, patriotic and other activities[.]" CP 904. Auxiliary members, however, have never been admitted to full Eagles membership. From 1995 forward, as promised by the Eagles' Constitution, female members have participated as full voting members of the Eagles, entitled to perform the organization's rituals in their own local aeries, and to attend the performance of the rituals at any other local aerie. CP 885, CP 151 at ¶4.

C. The Eagles Engage in Widespread Public Recruiting Activities and are Largely Unselective in Membership.

The Eagles place a heavy emphasis on continuous membership recruitment. Membership drives are an essential feature of the Eagles and new membership is vital to the financial well-being of the organization. The Eagles has a membership department charged with maintaining and increasing membership. CP 896. The membership department distributes a new member brochure that, in addition to emphasizing the organization's civic orientation, states in large block letters: "Every Member Owes at Least One New Member to His Aerie

Each Year." L 14, CP 705. One Eagles brochure emphasizes the need for Eagles members to "Sell Eagledom." L 9, CP 865. In Washington State, as elsewhere, the Eagles rely on membership quotas and programs to increase membership. CP 798. Indeed, there are cash awards for bringing in new members. L 1, CP 803. There is little selectivity in Eagles membership determinations. For example, during the period from 1994 to 1999, the Tenino Aerie added 450 members. App. 11, CP 638 (Decl. of Charles N. Tarver, ¶13). Of those who applied during that time, only two were rejected. *Id.* The application for membership is indicative of what is required to become a member, requesting only the applicant's name, address, phone, date of birth, and whether the applicant was previously an Eagles member. L 16, CP 775. Notably, the application does not reference gender. *Id.*

In the Eagles, membership determinations are largely a matter of local aerie decision. The Eagles' Constitution provides that "[e]ach Local Aerie shall be the sole judge of the persons who may be admitted as guests or members." CP 885. As noted, the Eagles' charter documents do not limit membership to men. While the Eagles' Constitution does require members to believe in a Supreme Being, CP 928, such a belief bears no nexus with gender. The male-only membership criterion appears, not in the Eagles' charter and constitution, but in the organization's statutes. CP 928.

D. Eagles' Activities are Civic, Financial and Charitable in Nature, With Corresponding Financial Benefits to Members.

Large membership numbers are the driving force behind the Eagles' decades-long commitment to public

civic activities. The Eagles' Statutes create a program department that has the duty of carrying on "*civic*, patriotic, fraternal and social programs." CP 896 (emphasis added). Due in large part to its high membership numbers, the Eagles control substantial sums and make large charitable donations. For example, during the 1980s, the Eagles raised $23 million for charities. L 13, CP 868. The Eagles was so instrumental in the passage of the Social Security Act that President Franklin D. Roosevelt presented the pen with which he signed the Act to the Eagles as "a symbol of my approval of the Fraternity's vision and courage." L 14, CP 705. The Eagles distinguishes itself from other fraternal organizations because Eagles "reach outside their own ranks to fight for the welfare of all." L 14, CP 705.

Eagles membership carries important social and financial benefits. Six presidents of the United States have been Eagles members. L 13, CP 869. One of the four corporate purposes of the Eagles is "[t]o establish and maintain an insurance department" – for death, old age disability and other benefits. CP 877 (Articles of Incorporation). Members of some local aeries may purchase this insurance. CP 858. Members' families may also be the financial beneficiaries of the Eagles Memorial Foundation. CP 910. For example, in the 1940s, $3 million was raised to honor those Eagles who were among the war dead, and to provide medical, dental, and educational aid for children of Eagles servicemen who died. L 10, CP 866. In the 1960s, the Foundation also began to provide aid for the educational and health needs of children of Eagles members who were police officers or firefighters killed on duty.

Local aeries are also social centers for their members and the larger community. For example, the Tenino Aerie's

facilities include a bar, a dance floor, and space for meetings and activities. The Tenino Aerie has sponsored community parades, pancake breakfasts, holiday events for children and families, karaoke nights, beer gardens and weekly suppers, with many of these functions being attended by members of the community. App. 4, CP 771 (Decl. of Alton F. Brasher, ¶3).

Although Petitioner introduces in its Petition for Certiorari a description of the organization as a "quasi-religious group," the Eagles' Constitution specifically states that the Grand Aerie cannot adopt laws that interfere with the religion of its members. CP 885-86. The record is bereft of evidence that the Eagles is a "quasi-religious" group. Regardless of the level of religious activity by individual Eagles, there is no suggestion that the women who sought Eagles membership did not share a belief in a Supreme Being.

E. Proceedings Before the State Courts.

When the Grand Aerie reversed its direction on the admittance of women, the Tenino and Whidbey Island Aeries brought suit, claiming that the reinstated male-only membership policy violated the Washington Law Against Discrimination ("WLAD"), which prohibits discrimination in areas of public accommodation. The trial court granted summary judgment in favor of the local aeries, finding that fraternal organizations are exempt from the WLAD only if they can prove they are "distinctly private," and that the Eagles is not. *Eagles*, 148 Wash. 2d at 232-33. The Washington appellate court reversed, finding that fraternal organizations are exempt under the WLAD regardless of whether they are private. *Fraternal*

Order of Eagles, Tenino Aerie No. 564, et al. v. Grand Aerie, Fraternal Order of Eagles, et al., 108 Wash. App. 208, 217, 27 P.3d 1254 (2001). The Washington Supreme Court disagreed, concluding that such an interpretation would frustrate the purposes of the WLAD and holding that, because the Eagles is not private, the Grand Aerie cannot discriminate against women in the state of Washington. *Eagles*, 148 Wash. 2d at 256-57.

V. REASONS FOR DENYING THE WRIT

A. Summary of Reasons to Deny the Writ.

The Petition fails to establish an appropriate ground for granting the requested writ. Petitioner cannot demonstrate that the Washington Supreme Court's decision in this case, which focused on the interpretation of a grammatically ambiguous state statute, decided an important federal question in a way that conflicts with relevant decisions of this Court or other cases. *See* Sup. Ct. R. 10.

On the contrary, the Washington Supreme Court followed this Court's direction in *Roberts v. United States Jaycees* and *Board of Directors of Rotary Int'l v. Rotary Club of Duarte* to consider certain factors, such as aggressive membership recruiting, organization size, and selectivity of membership decisions, in its determination that the Eagles was not private and therefore subject to Washington's anti-discrimination laws. The decision accords with relevant precedent and is not in conflict with *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), which concerned the application of state anti-discrimination law to a concededly private organization.

Specifically, the Washington Court's ruling does not conflict with *Dale* because the Eagles has no expressive interest in excluding women. Indeed, by its own action, the Eagles has extended membership rights to women who continue to be active in the organization. Further, whatever minimal burden, if any, that compliance with anti-discrimination law imposes on the Eagles' associational rights is justified by Washington's compelling interest in preventing gender discrimination. Likewise, Petitioner's other cited authorities do not conflict with the Washington Supreme Court's ruling, as they either were based on entirely different statutes or involved an exclusively private religious group.

B. The Washington Supreme Court's Decision Accords With Precedent.

This Court's prior cases guide analysis of the impact of state anti-discrimination laws on an organization's freedom to exclude members on the basis of gender, race, sexual orientation, or other suspect classification. The expressive interests of private organizations have greater protection from government regulation than those of non-private organizations. *See, e.g., Louisiana Deb. and Lit. Ass'n v. City of New Orleans*, 42 F.3d 1483 (5th Cir. 1995). To determine whether an organization is private, courts apply the factors enunciated in *Roberts v. United States Jaycees* and affirmed in *Board of Directors of Rotary Int'l v. Rotary Club of Duarte*. 468 U.S. 609 (1984); 481 U.S. 537 (1987). The constitutional analysis then requires a court to determine 1) whether the organization is an expressive association; 2) whether compliance with the law materially interferes with the ideas the organization seeks to express; and 3) if so, whether there is a compelling

governmental interest that justifies the intrusion. *Boy Scouts of America v. Dale*, 530 U.S. 640, 657-59 (2000) (discussing *Roberts* and *Rotary*).

In this case, the Washington Supreme Court correctly applied the *Roberts* factors and determined that the Eagles is not a private organization. Thus, the Eagles is properly subject to state anti-discrimination law and Washington's compelling interest in preventing discrimination outweighs vague and unsupported allegations of harm to the Eagles' expressive freedom. While the Washington Supreme Court did not expressly analyze *Dale*, its opinion is consistent with the holding of that case, and the writ should be denied.

1. The Washington Supreme Court Correctly Applied *Board of Directors of Rotary Int'l v. Rotary Club of Duarte* and *Roberts v. United States Jaycees* to Determine that the Eagles are not Private.

The Washington Supreme Court properly applied state law in accordance with the standard established by this Court in *Roberts v. United States Jaycees*. 468 U.S. 609. In *Roberts*, the Jaycees' discriminatory admission polices were properly struck down under the Minnesota Human Rights Act, which forbids gender discrimination in public accommodations. *Id.* *Roberts* announced a list of factors that distinguish private organizations, whose expressive associational rights are protected by the Constitution, from public accommodations that merit lesser First Amendment protection: size, purpose, policies, selectivity, congeniality and other characteristics pertinent to the particular case. *Id.* at 620. In *Roberts* itself, the

Court found that two local chapters of the Jaycees were "large and basically unselective groups." *Id.* at 621. Thus, the local chapters were not private, a finding supported by the fact that the chapters were not small or selective, did not employ criteria for judging applicants for membership, routinely recruited and rarely denied members, allowed women to attend meetings and participate in organizational functions, and allowed non-members of both genders to participate in activities, programs and recruitment meetings. *Id.*

The *Roberts* analysis was affirmed in *Board of Directors of Rotary Int'l v. Rotary Club*. 481 U.S. at 546. Like *Roberts*, *Rotary* upheld a challenge to a gender-based admissions policies under a state anti-discrimination statute. Key to the Court's reasoning that discriminatory membership standards could not be sustained was the Rotary Club's policy directing local chapters to recruit a steady stream of prospects to offset attrition and to increase membership. In *Rotary*, the Court recognized that the purpose of such recruiting drives is to produce an inclusive, not exclusive, membership. *Id.*

Applying the *Roberts* factors, the Washington Supreme Court found that the Eagles is not private. The Eagles' aggressive membership recruiting drives result from the identical membership concerns discussed in *Rotary*. As the Washington Supreme Court noted, the Grand Aerie's new member brochure evidences a lack of exclusivity. *Eagles*, 148 Wash. 2d at 254. The brochure proclaims the Eagles' slogan: "Every Member Owes at Least One New Member to His Aerie Each Year." L 14, CP 705. The Eagles reward local aeries and individual members for producing new members. L 1, CP 803. The drive to increase membership is demonstrated by the membership

quotas, cash rewards for recruiting, and the extraordinarily high rates of admission. L1, CP 803, CP 638. For example, one local aerie added 450 new members over a four-year period, rejecting only two applicants during that time. App. 11, CP 638. The Washington Supreme Court correctly found that the Eagles is not distinctly private and therefore is not entitled to an exemption from Washington's laws against discrimination. *Eagles*, 148 Wash. 2d at 256-57.

Petitioner's argument that *Roberts* and *Rotary* apply exclusively to public accommodations that promote business interests lacks merit. *Roberts* and *Rotary* hold only that the presence of a business interest is one of a number of factors that can be considered in determining whether a *Roberts* and *Rotary* analysis should be applied. Even if *Rotary* and *Roberts* were to apply only to groups that promote members' business interests, however, the Eagles satisfies any such requirement. Petitioner's claim that the Eagles is not a civic or business group, Petition at 6, is belied by the Grand Aerie's own materials. *See, e.g.,* CP 706. Further, the Grand Aerie admits that its policy banning discussion of business applies only when members are actually engaging in ritual activities. *Eagles*, 148 Wash. 2d at 250.

2. The Washington Supreme Court's Ruling does not Conflict With *Boy Scouts of America v. Dale* Because the Eagles are not Private.

The Washington Supreme Court's ruling is not contrary to *Boy Scouts of America v. Dale* because this case, like *Roberts* and *Rotary*, concerns the application of a state anti-discrimination statute to a *non-private* group. *Cf.*

Dale, 530 U.S. at 644. The *Dale* decision, conversely, dealt exclusively with the application of such state laws to a concededly private organization. *Id.* at 644 ("The Boy Scouts is a private, not-for-profit organization . . ."). *Dale* did not overturn *Roberts* and *Rotary*. Respondents do not dispute that an organization's right to expressive freedom is accorded greater deference when that organization is private. *See, e.g., Louisiana Deb. and Lit. Ass'n v. City of New Orleans*, 42 F.3d 1483 (5th Cir. 1995). The Eagles is not, however, a private organization. Further, regardless of whether an organization is public or private, *Dale* reaffirmed the *Roberts* proposition that an organization's freedom of expressive association is not absolute and can be overridden by compelling state interests. *Id.* at 648.

3. The Washington Supreme Court's Ruling was Correct Because the Continued Admission of Women Causes no Harm to the Eagles' Expressive Freedom.

Even if the Eagles were a distinctly private organization, Petitioner's reliance on *Dale* would be misplaced. *Dale* concerned a fundamentally different situation in which the forced inclusion of an openly homosexual gay rights advocate would run counter to the private organization's consistently articulated voice against specific conduct and the values it tries to inculcate in young members. *Dale* found that forcing the Boy Scouts to keep an openly homosexual member undermined the organization's articulated expressive stance against homosexual conduct. *Id.* at 652, *see also id.* at 659 ("A state requirement that the Boy Scouts retain Dale as an assistant scoutmaster would significantly burden the organization's right to

oppose or disfavor homosexual conduct."). Consequently, *Dale* concluded that the mandated inclusion of homosexuals in the Boy Scouts "would significantly affect its expression." *Dale*, 530 U.S. at 656. The *Dale* concern with governmental repression of an organization's expressive voice is not raised by this case, which involves an organization that 1) already has members from the group that it now wishes to exclude and 2) has no expressive stance implicated by inclusion of that group.

Dale sought to prevent the repression of a private group's consistently expressed values. *See id.* at 651. To that end, the Court noted that the Boy Scouts had a long and consistent history of expressing a belief in the incompatibility of homosexuality with scouting. *Id.* at 651-57. In addition to writings that have reiterated that message repeatedly over the years, the Scouts had previously expelled homosexual members. *Id.* at 652 (referencing prior litigation on similar facts). Unlike the Scouts, the Eagles does not have an articulated expressive voice against women generally, nor is its current stance against women members consistent with its prior admission and current retention of women members.

In further contrast with the Boy Scouts, the Grand Aerie does not claim that women engage in conduct antithetical to the Eagles' message. Instead, the Grand Aerie's discriminatory membership policy is based on gender status – a physical fact unrelated to the Eagles' mission or message. *See Dale*, 530 U.S. at 653-54 (in allowing organizers of a private St. Patrick's Day parade to exclude a group of gay rights advocates that wanted to march with a banner, the Court noted that the upheld exclusion was not based on the individual advocates' status, but rather that the group's intended message to

parade watchers was not one parade organizers wished to communicate) (discussing *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557 (1995)). Unlike *Dale* or *Hurley*, the inclusion of women as Eagles members does not implicitly force the Eagles to express an idea that is contrary to their core values. *Cf. Dale*, 530 U.S. at 654 ("As the presence of GLIB in Boston's St. Patrick's Day parade would have interfered with the parade organizers' choice not to propound a particular point of view, the presence of Dale as an assistant scoutmaster would just as surely interfere with the Boy Scouts' choice not to propound a point of view contrary to its beliefs.").

The Eagles' literature makes clear that the purpose of the organization is gender-neutral: to inculcate the principles of liberty, truth, justice and equality. CP 644. The Eagles' Constitution is also remarkably gender neutral. Allowing women is harmonious, not incongruent, with the Eagles' message of inculcating liberty, truth, justice and equality – as demonstrated by the fact that the Eagles have had women as members for the last eight years with no apparent negative consequences to their expressive voice or mission.[3] As *Roberts* unequivocally explained:

---

[3] While Petitioner repeatedly claims that having female members is fundamentally incompatible with the Eagles' "ritual practices that emphasize the value of brotherhood and friendship among a group of men and also the value of sisterhood and friendship among a group of women," Petition at 18, this assertion remains entirely unexplained, even after eight years of female participation in these rituals. Just as a male Eagles member may apparently affirm his support of the value of "sisterhood among women" without conflict, *id.*, there is nothing about

(Continued on following page)

> There is, however, no basis in the record for concluding that admission of women as full voting members will impede the organization's ability to engage in these [civic, charitable and other] protected activities or to disseminate its preferred views. The Act requires no change in the Jaycees' creed of promoting the interest of young men, and it imposes no restrictions on the organization's ability to exclude individuals with ideologies or philosophies different from those of its existing members.

Roberts, 468 U.S. at 627. Admitting women to the Eagles does not impede the organization's expressive rights or alter its ideological or philosophical message, as demonstrated by the Eagles' retention of those female members that it already has.

Even if the Eagles once had a consistent associational expression in favor of excluding women, a proposition not supported by the record in this case, the organization's practices no longer support such a position. The Grand Aerie's decision to allow women to remain in the Eagles is uncontrovertable evidence that the Grand Aerie's expressive freedom and message are not harmed in the manner that the Boy Scouts' message was allegedly adversely affected. As discussed, the Grand Aerie admitted women for several years, and, even after its reversal in policy, *retained* the admitted women members. This voluntary decision to allow women to remain members and to perform the Eagles' rituals is inconsistent with the Grand

---

her gender *per se* that prevents a woman from affirming support for "the values of brotherhood among men." *Id.*

Aerie's current position that allowing women to perform the rituals somehow impacts its expressive voice. Even after eight years of women performing the rituals, the Grand Aerie points to no evidence that the admission of additional female members affects the expression of those rituals or otherwise dilutes the Eagles' message. Indeed, the only evidence that the Grand Aerie points to that is *consistent* with its position in this litigation are the comments some members made during the discussion surrounding the 1998 decision to stop admitting female members. Petition at 16-17. These isolated comments do not represent the collective voice of the Eagles. Rather, its charter documents, its history of involving women in almost every aspect of its affairs, and its decision to allow admitted women to remain members constitute that collective voice. For all these reasons, the Grand Aerie's current assertions regarding the nature of its expression are not entitled to the same deference that was accorded to the Boy Scouts. *See Dale* at 657-58.

4. The Washington Supreme Court's Ruling was Correct Because any Incidental Burden on the Eagles' Expressive Interests is Justified by Washington's Compelling Interest in Preventing Discrimination.

The Washington Supreme Court's decision comports with that state's strong interest in preventing gender discrimination and reflects clearly established state policy against gender-based exclusions. As *Rotary* recognized, any slight infringement on the right of expressive association of a group's members can be justified by a state's compelling interest in eliminating discrimination against

women. *Rotary*, 481 U.S. at 549. Petitioner's characterization of Washington's interest in preventing gender discrimination as "tentative" is absurd. *See* Petition at 19. Unlike the United States Constitution, Washington's Constitution has an Equal Rights Amendment that specifically bans gender discrimination. Wash. Const., Art. XXXI, §1. The Equal Rights Amendment "absolutely prohibits discrimination on the basis of sex and is not subject to even the narrow exceptions permitted under traditional 'strict scrutiny.'" *Beeston v. Guard*, 83 Wash. App. 325, 331, 921 P.2d 544 (1996) *aff'd*, 132 Wash. 2d 660, 940 P.2d 642 (1997).

The Washington Supreme Court correctly found that unconditionally exempting groups who merely self-identify as "fraternal organizations" from state anti-discrimination law, without requiring a demonstration that the group is actually private, undermines the purpose of a statute that is designed to prevent discrimination in all public settings. *Eagles*, 148 Wash. 2d at 256. Washington has an especially strong interest in preventing gender discrimination, and any alleged infringement on the Grand Aerie's expressive interest in banning further female members while retaining those already admitted is justified by Washington's compelling interest in eliminating gender discrimination.

5. The Washington Decision is Consistent with Other Cases Cited by Petitioner.

None of the cases Petitioner cites to establish a conflict between the Washington Supreme Court's decision and other decisions are persuasive. For example, *Donaldson v. Farrakhan*, 436 Mass. 94, 762 N.E.2d 835 (Mass. 2002), involved a truly religious organization that

had defined and religiously-based gender roles. In *Donaldson*, the female plaintiff was denied entrance to a religious men's meeting of Muhammad's Mosque No. 11, an affiliate of the religion of the Nation of Islam, at which the Rev. Louis Farrakhan was to speak. *Id.* The Massachusetts Court recognized that the Nation of Islam's separation of the sexes through weekly separate meetings "is part of the belief system and has been a part of the Nation of Islam's religious practices for more than sixty years." *Id.* at 101. The *Donaldson* Court recognized that Farrakhan's speech at the meeting in question was directed at the men of the mosque, particularly those males engaging in crime and violence, and including women would change the message. *Id.* at 101-102.

The *Donaldson* facts cannot be equated with the position of the Grand Aerie, which for three years recruited and continues to retain female members for an organization whose only religious criterion is a "belief in a Supreme Being." Moreover, the Eagles expressly attempts to avoid specific religious positions, including a constitutional requirement that prevents the Eagles from taking positions that are inconsistent with the various religious beliefs of its members. CP 885-86. Notwithstanding the Grand Aerie's description of the Eagles as a "quasi-religious" organization, Petition at ii, the record establishes that the Eagles are a civic and charitable organization, not a religious one.

Petitioner's reliance upon *New York State Club Association, Inc. v. City of New York*, 487 U.S. 1 (1988), for the proposition that a categorical exemption from discrimination laws exists for those clubs that do not engage primarily in business activities is misplaced. In *New York*, city law explicitly and categorically exempted

all benevolent orders because such organizations "have not been identified in testimony before the Council as places where business activity is prevalent, [and therefore] the Council has determined not to apply the requirements of this local law to such organizations." *Id.* at 7 (quoting New York Local Law No. 63, sec. 1). Thus, whether the individual clubs in question were private was not at issue in the case – they were specifically deemed private under the law at issue. *Id.* at 6-7. Further, the Court recognized that the city law could be constitutionally applied to a non-private organization. *Id. New York* is not inconsistent with the Washington Supreme Court's decision.

C. Application of the Washington Law Against Discrimination to the Eagles does not Raise an Important Federal Issue.

The Washington Supreme Court's decision raises no important federal issue. Rather, it resolves a grammatical ambiguity in a state statute – specifically, the question of "whether the [Washington] Court of Appeals erred in its reading of the Washington Law Against Discrimination to automatically exclude fraternal organizations from application of the prohibitions in RCW 49.60.040(10) and that fraternal organizations are included in the exemption for 'any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations.'" *Eagles*, 148 Wash. 2d at 236. The Washington Supreme Court's decision contains extensive discussion of rules of punctuation and grammar, such as adjective and relative clauses. *See id.* at 239-43. This particular grammatical issue – and the Washington Supreme Court's resolution of the question – is not in conflict with federal law or the law of any other state.

Although the Eagles operates in all fifty states, the Washington Supreme Court's decision resolves a linguistic quirk of Washington law. The Washington Supreme Court did not need to express geographic limits on the decision because the WLAD is a Washington statute. Despite the Grand Aerie's dramatic suggestions, the Washington Supreme Court has no ability to compel local aeries in other states to admit women. Petitioner's allegations of a national danger are baseless.

Likewise, Petitioner's claim that numerous other Washington organizations will be required to admit women is meritless. There is no evidence that any other organizations have the same non-private nature and vacillating admissions policies demonstrated in this case. The particular facts of this case were key to the Washington Supreme Court's ruling that the Grand Aerie did not have an expressive interest that outweighed Washington State's compelling interest in preventing discrimination. *Eagles*, 148 Wash. 2d at 253-54. The Washington Supreme Court's ruling may apply to other organizations that have characteristics similar to those of the Eagles, in which case the organizations in question may fall outside the exception to the state anti-discrimination law. The Washington Court's decision in no way conflicts with the holding in *Dale* because *Dale* concerned a private organization. The Boy Scouts and Girl Scouts, contrary to Petitioner's claims, are not affected by this decision.

Petitioner's claim that this decision will in some way eliminate the statutory exemption for "distinctly private" clubs is vague and speculative at best. Petitioner implies that it is impossible for a private club to exist under the Washington ruling. *See* Petition at 24. Yet, private clubs are indeed capable of existing within the *Roberts* factors.

See, e.g., Louisiana Deb. And Lit. Ass'n v. City of New Orleans, 42 F.3d 1483 (5th Cir. 1995) (finding club private on basis of extremely restrictive and limited admission process). The Washington Supreme Court's decision is fully consistent with federal rights.

VI. CONCLUSION

As an organization operating in Washington State, the Eagles must comply with Washington law. The Washington Supreme Court correctly recognized that it is not private, and therefore is not exempt from Washington's laws against discrimination. The Grand Aerie's expressive rights, as the organization has established them, are not affected by the decision because women are already Eagles members and an integral part of the organization. The Grand Aerie provides no logical basis for its claim that the Eagles' associational rights require that only men participate in member rituals where the Eagles currently continue to fully involve its female members. The Washington Supreme Court's ruling does not impair a federal

right or conflict with other decisions. Petitioner raises no issue justifying the grant of a writ of certiorari.

Respectfully submitted,

*ROSEMARY DASZKIEWICZ
CAIRNCROSS & HEMPELMANN, P.S.
524 Second Avenue, Suite 500
Seattle, WA 98104
(206) 587-0700

ELIZABETH THOMAS
LAURA K. CLINTON
PRESTON GATES & ELLIS LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
(206) 623-7580
Attorneys for Respondents

**Counsel of Record*

Washington State Equal Rights Amendment

Wash. Const., Art. XXXI

§ 1. Equality not denied because of sex

Equality of rights and responsibility under the law shall not be denied or abridged on account of sex.

Washington Law Against Discrimination

Wash. Rev. Code § 49.60.030. Freedom from discrimination – Declaration of civil rights

(1) The right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person is recognized as and declared to be a civil right. This right shall include, but not be limited to:

. . .

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

Wash. Rev. Code § 49.60.040. Definitions

. . .

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether

conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

Honorable Richard A. Strophy
Noted for Hearing: 1/14/00

SUPERIOR COURT OF WASHINGTON
FOR THURSTON COUNTY

FRATERNAL ORDER OF EAGLES, TENINO AERIE NO. 564; KATHLEEN L. CONNOR; LANETTE DAVIS; JULIA A. FOSTER; GAYLE L. HARTMAN; KAYCEE L. JOHNSON; ANNETTE M. RILEY; DIANE E. ROBERTS; JANET TRESENRITER; ALICE F. VASSAR, and WHIDBEY ISLAND AERIE NO. 3418, Plaintiffs, v. GRAND AERIE, FRATERNAL ORDER OF EAGLES and WASHINGTON STATE AERIE, FRATERNAL ORDER OF EAGLES, WASHINGTON STATE AERIE, Defendants.	NO. 99-2-01214-1 DECLARATION OF ALTON F. BRASHER IN SUPPORT OF SUMMARY JUDGMENT (Filed Dec. 07, 1999)

I, Alton F. Brasher, declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

1. I am the Past Worthy President of Tenino Aerie 564 of the Fraternal Order of Eagles ("Aerie 564"). I served as Worthy President from June 1998 to June 1999. I make this declaration based on my own knowledge and I

am competent to the matters contained in this declaration.

2. I joined Aerie 564 in 1965. I held a number of leadership positions between 1994 until I was expelled from the Eagles earlier this year for my continued support of including women as Eagles. I am appealing that expulsion, which was against the Eagles Constitution, By-Laws and Statutes.

3. Aerie 564 is an active, thriving Aerie. It owns and operates a large facility in downtown Tenino which includes a bar, a dance floor, and space for meetings and activities. In recent years Aerie 564 has sponsored numerous functions including community parades, pancake breakfasts, holiday events for children and families, karaoke nights, beer gardens and weekly suppers. The community attends many of these functions, along with Eagles and Eagles Auxiliary members and their guests. Aerie 564 also has engaged in many service activities, including fund raising for a variety of charitable causes. In addition, Aerie 564 sponsors various activities such as sports teams.

4. The task of running such an active organization has always included many women. In fact, women have participated side by side with men in virtually every activity of Aerie 564. The only functions in which women did not participate prior to 1996 were the bi-monthly membership meetings.

5. I am a member of Aerie 564's Nominating Committee. In Aerie 564 existing members nominate people they know through family, work, church, social activities, shared hobbies, or other connections. A person is "nominated" once they have completed a

rudimentary application form and paid a $15.00 initiation fee and the first years' annual dues. Exhibit 1. The nominee is then told to attend a specific Aerie meeting, generally within one month of completing the application.

6. Prior to the start of the meeting the candidate is interviewed by the Interviewing Committee. The interview lasts from 10 to 15 minutes. There are no required questions, but nominees are often asked what prompted their interest in the organization. The Interviewing Committee asks some questions to determine "moral fitness," for example, whether applicants have a criminal history and whether they are a member of the communist party, the KKK or other extremist groups. Nominees are also asked about their personal, family and work background. Some of the rules of the Aerie are explained and they receive information about the Eagles. Finally, nominees are asked about their interests and encouraged to get involved once they become members.

7. The nominee is then presented at a full membership meeting for acceptance or rejection. In the past, a candidate could be rejected if three of those who attended the meeting voted against their membership. In 1996, the Grand Aerie amended the rules, and now a candidate is admitted unless a majority of those present vote against admittance.

8. Aerie 564 has faced criticism for admitting women. On May 12, 1996, when Aerie 564 initiated a father and daughter, William Blum, who was then the Grand Worthy Vice President and President-Elect (and a member of the Chehalis Aerie No. 1550, stated that

the admission of women was "a disgrace to the rituals of the Order and no laughing matter."

9. By letter dated January 3, 1999, the Secretary of the State Aerie informed Local Aeries that women could no longer be Eagles.

10. On March 1, 1999, the Grand Secretary sent all Local Aeries a letter reminding them that Section 70.2 requires applicants to be male. This was the first time Aerie 564 received anything from the Grand Aerie that suggested that the applications of women would no longer be accepted.

11. On March 1, Chuck Tarver, Dave Roberts and I were brought up on fraternal charges and expelled for sponsoring women.

1417 HAYES AVE. N.W.
Olympia, Wa. 98502 12-7-99 Alton F. Brasher
Date & Place Alton F. Brasher

Honorable Richard A. Strophy
Noted for Hearing: 1/14/00

SUPERIOR COURT OF WASHINGTON
FOR THURSTON COUNTY

FRATERNAL ORDER OF EAGLES, TENINO AERIE NO. 564; KATHLEEN L. CONNOR; LANETTE DAVIS; JULIA A. FOSTER; GAYLE L. HARTMAN; KAYCEE L. JOHNSON; ANNETTE M. RILEY; DIANE E. ROBERTS; JANET TRESENRITER; ALICE F. VASSAR, and WHIDBEY ISLAND AERIE NO. 3418, Plaintiffs, v. GRAND AERIE, FRATERNAL ORDER OF EAGLES and WASHINGTON STATE AERIE, FRATERNAL ORDER OF EAGLES, WASHINGTON STATE AERIE, Defendants.	NO. 99-2-01214-1 DECLARATION OF CHARLES N. TARVER IN SUPPORT OF SUMMARY JUDGMENT (Filed Dec. 07, 1999)

I, Charles N. Tarver, declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

1. I make this declaration based on my own knowledge and I am competent to the matters contained in this declaration.

2. I joined Fraternal Order of Eagles, Tenino Aerie No. 564 ("Aerie 564") in July 1994. At that time Aerie 564 was near financial collapse due to mismanagement and extremely high overhead. I agree [sic] to try to help it turn around as long as I had the support of the Trustees and members, which was given to me. When I joined I had no previous experience with the Eagles but I immediately recognized what an asset they were to humanity, and I became dedicated to heir [sic] cause of trying to help other people. All my life has been one of helping others, so this opportunity suited me quite well.

3. I was appointed Secretary in March 1995. I received approximately $650.00 per month for my work. I remained Secretary until May 15, 1999, when I was removed against my will because I continued to submit the names of women as members.

4. Established in Seattle in 1989, [sic] the Fraternal Order of Eagles has spread across the United States and internationally and now claims in excess of 1.6 million members. The international governing body is the Grand Aerie of the Fraternal Order of Eagles ("Grand Aerie") which has adopted a Constitution, Bylaws and Statutes. Exhibit 1. Local Aeries agree to adopt the Constitution established by the Grand Aerie, and to follow the rules and regulations it establishes. The Grand Aerie alone has the power to grant and revoke Aerie charters.

5. People join chapters, called "Local Aeries," that typically own their own facilities including a cocktail area, kitchen facilities and meeting or activity space. Each Aerie is led by a Board of Officers and Trustees that includes the following positions: Worthy President;

Jr. Worthy President; Vice President; Chaplain; Secretary; Treasurer; Aerie Auditor; Inside Guard; Outside Guard and Trustees. Aside from the Secretary, all the Officers and Trustees volunteer their time.

6. Local Aeries are grouped into Districts within a State, and each State has its own State Aerie. State Aeries do not have independent control over Local Aerie. Instead, District and State meetings serve as forums for sharing news and information, and for discussing policy issues in advance of the organizations annual convention.

7. As Secretary I received a variety of booklets and documents from the Grand Aerie. Exhibit 2 is a the [sic] new member welcome brochure. We get copies of this brochure from the National Aerie to distribute to new and potential members.

8. Aerie 564 was established in 1904. As of June of 1999, it had an active membership of 721 including 56 women.

9. Local Aeries decide whether a candidate satisfies the requirement for membership in the Eagles. Once it initiates a new member his or her name is forwarded to the Grand Aerie, along with a portion of the member's $16.00 initiation fee. The Grand Aerie then assigns the new member a Grand Aerie number.

10. Aerie 564 has submitted to the Grand Aerie the names of all those it has admitted as members, along with all monies due. Those women who Aerie 564 admitted prior to March 1, 1999 have received Grand Aerie numbers. With the exception of one woman who had a gender-neutral name, those women who Aerie 564

admitted after March 1, 1999 have not received Grand Aerie numbers, but their initiation fees have not been refunded.

11. The Eagles have always placed a premium on increasing membership. The Grand Aerie has created a Membership Department that helps Local Aeries increase their membership. The State Aerie has a Membership Chair with similar responsibilities. The Membership Department assigns Local Aeries quotas for increasing membership. It sends monthly letters to Local Aeries commending them for meeting their quotas or remonstrating them if they have failed. It coordinates membership campaigns and provides various types of member services. In addition, it awards special honors and commendation to Aeries who greatly exceed their goals, and it gives awards to members who are instrumental in recruiting many new members.

12. In 1997-98, Aerie 564 was expected to increase membership by seven per month. Aerie 564's success in initiating 96 new members in 1998 earned it the Centennial Award. In 1998-99 Aerie 564 was expected to increase its membership by 5 per month. It exceeded that by two and a half times. Aerie 564 regularly receives letters like Exhibit 3, commending us for achieving our membership goals. Recently the Grand Aerie awarded a commemorative jacket to a member of Aerie 564, Dave Roberts, for his success in brining [sic] in many new members during the previous year.

13. The Grand Aerie distributes an "Aerie Officers' Handbook. Exhibit 4. It recommends that Local Aeries adopt Interviewing Committees to review applications for membership, but otherwise Local Aeries are free to

establish their own specific procedures for selecting new members. Aerie 564 has added 450 members in the past five years. During that time, only two people who were nominated for membership were rejected.

14. Like many organizations, in its early years the Eagles enforced a variety of discriminatory membership practices. By the late 1980's all the discriminatory requirements had been removed except the prohibition against women members. In the 1980s and early 1990s an effort began to expand the membership of the Eagles to include women.

15. In 1995 Aerie 564 learned that the Grand Tribunal had reviewed the Eagle's constitutional limitation on the admission of women as members and had issued Opinion 750 which permitted Local Aeries to admit women.

16. Aerie 564 quickly acted to admit women after it learned of Opinion 750, as did several other Washington Aeries, including Olympia, Gig Harbor, Whidbey Island and Spokane Valley, among others.

17. The increase in membership that resulted once Aerie 564 started to admit women has substantially increased revenue for Aerie 564, and, for the Grand Aerie, which receives a portion of those dues in an annual tax that must be paid on behalf of each member. In addition, the increase in the number of people socializing at the Aerie on weekends has poured money into Aerie 564's coffers. The extra money has been critical to the Aerie. In 1995 the Aerie was close to bankruptcy for a number of reasons. A number of us have worked hard over the past few years and the finances are now in excellent shape. One of the biggest factors helping us to

stabilize the Aerie's finances has been the admission of women as members because of the increased dues and the increased revenues from the re-energized Aerie.

18. Not all members were happy with the Grand Tribunal's decision to follow the law and permit Local Aeries to admit women. Since soon after it began admitting women, Aerie 564 has faced criticism for its actions. However, between 1996 and March of 1999 the Grand Aerie continued to accept the female members submitted by Aerie 564, and each year it collected the annual tax on behalf of these members.

19. Earlier in 1999, I was brought up on "fraternal charges" for continuing to forward the names of female members to the Grand Aerie and I have been expelled. I am appealing that expulsion because I believe it was against the Constitution, By-Laws and Statutes of the Eagles.

20. Women and members of the community are often involved in Aerie activities. Women who are Auxiliary members or guests a [sic] Local Aerie or Auxiliary member can take advantage of the club's social room. Women can be employed by the Eagles as club managers or staff. In addition, the community is invited to many of the Eagles functions, which include parades, holiday parties, civic celebrations, benefit dinners swing dancing and karaoke.

Dec. 7, 1999
Olympia WA 98506
Date & Place

Charles N. Tarver
Charles N. Tarver